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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 232

[Docket ID: DoD-2013-OS-0133]

RIN 0790-AJ10

Limitations on Terms of Consumer Credit Extended to Service Members and Dependents

**AGENCY:** Department of Defense.

**ACTION:** Advanced notice of proposed rulemaking.

**SUMMARY:** The Department of Defense (the Department or DoD) issues this advanced notice of proposed rulemaking (ANPR) regarding enhancement of the protections that apply to consumer credit extended to members of the armed forces and their dependents, such as by a provision (as proposed in a recent Senate bill) that would require the Secretary of Defense to develop a policy on the predatory extension of credit through installment loans that target members of the armed forces and their dependents. This ANPR requests comment on the need to revise the Department's existing regulation that, in general, imposes certain limits on and requires certain disclosures relating to the provision of consumer credit to a covered borrower.

**DATES:** Comments must be received by August 1, 2013.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350-3100.

*Instructions:* All submissions received must include the agency name, docket number and title for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Marcus Beauregard, (571)372-5357.

**SUPPLEMENTARY INFORMATION:** DoD invites comments and recommendations on: (1) the need to revise the implementing regulation (32 CFR part 232) adopted in August 2007,<sup>1</sup> with special attention to the scope of the definition of “consumer credit;” (2) whether there is a need for change, and, if so, any specific revision(s) and why; (3) what should not be included in any revision and why; and (4) examples of alternative programs designed to assist Service members who need small dollar loans.

For background, an excerpt of the text contained on pages 782 and 783 of the Conference Report accompanying H.R. 4310, “National Defense Authorization Act for Fiscal Year 2013” (available at [http://www.dtic.mil/congressional\\_budget/pdfs/FY2013\\_pdfs/AUTH\\_CRPT-112hrpt705.pdf](http://www.dtic.mil/congressional_budget/pdfs/FY2013_pdfs/AUTH_CRPT-112hrpt705.pdf)) referring to this subject is as follows:

“Enhancement of protections on consumer credit for members of the armed forces and their dependents: The Senate amendment contained a provision (sec. 651) that would amend section 987 of title 10, United States Code, to require that vehicle title loans and payday loans, regardless of duration or whether they are open- or closed-end, are included within the definition

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<sup>1</sup> See Limitations on Terms of Consumer Credit Extended to Service Members and Dependents, 72 FR 50580-50594 (August 31, 2007).

of “consumer credit” contained in regulations promulgated by the Secretary of Defense pursuant to that section. The provision would also require the Secretary to develop a policy on the predatory extension of credit through installment loans that target members of the armed forces and their dependents. The House bill contained no similar provision. The Senate recedes. The conferees recognize the progress the Department of Defense has made since consumer protections for military members and their dependents against predatory lending were enacted in the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364), codified in section 987 of title 10, United States Code. A recent report by the Consumer Federation of America, *The Military Lending Act Five Years Later*, found that ‘the law has been largely effective in curbing predatory . . . lending to covered borrowers.’ Nevertheless, the report found that many predatory lenders have modified their products to avoid coverage by the Department’s rules implementing section 987, and recommended that ‘the Department of Defense . . . conduct an internal study of service members, financial counselors, and legal assistance/JAG officers to ascertain the impact of the current set of . . . rules on the use of defined products, problems caused by similar and emerging products, and the use of allotments to pay for commercial credit.’

“The conferees are concerned that the Department must remain vigilant to eliminate continuing, evolving predatory lending practices targeting service members and their families, and believe the Department should review its regulations implementing section 987, to address changes in the industry and the evolution of lending products offered since 2007, continuing use of predatory marketing practices, and other abuses identified by consumer protection advocates, including the Consumer Financial Protection Bureau’s Office of Servicemember Affairs.

The conferees direct the Secretary to conduct surveys of counselors, legal assistance attorneys, service members, and other appropriate personnel, and to consult with both consumer protection advocacy groups and representatives of the financial services industry to determine if changes to rules implementing section 987 are necessary to protect covered borrowers from continuing and evolving predatory lending practices, and to report to the Committees on Armed Services of the Senate and House of Representatives no later than 1 year after the date of enactment of this Act on the results of such review.”

Comments and recommendations received in response to this ANPR will be reviewed as part of a proposed rulemaking, which may be the next step in this process.

Dated: June 11, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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